

Chapter 6.08

TAXATION AND ECONOMIC DEVELOPMENT POLICY

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6.08.010 Taxes on mining.

For a period until November 23, 2011, the borough shall not enact an ordinance creating a property, income, production or severance tax, or any similar charges, levies, assessments or other fees on mining developments, their operations, or on activities and undertakings relating thereto within the borough. The borough reserves the right to enact a sales or use tax during this period but will at a minimum exclude from such sales or use tax the following: rents, royalties, goods, supplies or services obtained for use relating to the operation or development of a mineral property in the borough; labor supplied in relation to mining projects and products produced from a mineral property operating in the borough. (Ord. 96-09 § 1, 1996; Ord. 87-09 § 1, 1987; Code 1986 § 6.25.010(1))

6.08.015 Other taxes.

So long as no real or personal property taxes are imposed on mining developments, operations, activities or undertakings, then no real or personal property taxes shall be imposed on nonmining developments, operations or activities in the borough or on the real or personal property of the residents of the borough. This section may be amended or repealed only by unanimous vote of the total membership of the assembly. (Ord. 00-03 § 1, 2000)

6.08.020 Agreements between borough and corporations.

While it is in the interest of corporations to understand the taxation policies of the borough, it is also in their interest that the borough have the financial ability to maintain the delivery of needed and necessary public services. Therefore, the borough may enter into agreements with these corporations to achieve that financial stability as follows:

A. The borough shall enter into agreements with corporations that make a capital investment of \$20,000,000 or more within the borough.

B. The corporation and the borough shall enter into these agreements on terms and conditions negotiated between the parties and it is the borough's intent to have all such corporations contribute equitably to the support of the borough.

C. Such agreements shall be voidable at the option of the corporation, upon the enactment of any property, production, severance or income taxes or any sales or use tax without the exclusions provided for in NABC 6.08.010, or any similar charges, levies, assessments or other fees.

D. In the event the borough enters into an agreement with a corporation meeting the criteria established in subsection (A) of this section and a subsequent corporation meeting that criteria refuses to enter into a similar agreement, then the original

agreement with the first corporation shall be voidable at the option of the first corporation.

E. In the event such an agreement is void as a result of subsection (C) or (D) of this section, the corporation entering the agreement with the borough shall be entitled to a credit against future taxes for all sums paid pursuant to the agreement prior to the commencement of commercial operation of its project. The credit to be applied against the taxes in any one year shall be the lesser of either (1) 20 percent of all sums paid pursuant to the agreement prior to the commencement of commercial operation of the project, or (2) the amount of any taxes due from the corporation for that year. (Ord. 87-09 § 1, 1987; Code 1986 § 6.25.010(2))

6.08.030 Use of payments by borough.

Payments made under the agreements referenced in NABC 6.08.020 shall be used by the borough to institute public programs and services which may directly or indirectly benefit the commercial enterprises promoted by the corporations entering into said agreements. Such programs and services will be for a community purpose and to promote the good of the municipality and the residents of the borough. The employees of these enterprises shall have equal access to all programs, services and facilities operated by the borough for which they qualify pursuant to the terms of the programs. (Ord. 87-09 § 1, 1987; Code 1986 § 6.25.010(3))

6.08.040 Economic development advisory board.

There is created in the borough, under the authority of the mayor, an economic development advisory board. The mayor or the mayor's designee shall sit on the board together with four other members. Unless otherwise determined by the mayor, three board members shall represent the Northwest Arctic Borough School District Superintendent, the Maniilaq Association President and the NANA Regional Corporation President or their designees. The mayor shall appoint a person as the fifth member of the board as the mayor believes will best fulfill the purposes of the advisory board on a project by project basis. All members of the advisory board served at the pleasure of the mayor. The board shall advise the mayor, borough planning commission and assembly on issues that come before them that will have an effect on economic development and suggest projects and programs to promote the attractiveness of the borough for private enterprises. The role of the board is advisory only and it is the intent of the assembly that all issues relating to taxes and major development in the borough shall be presented to the board for review and comment before action by the assembly, mayor or planning commission. Unless the mayor objects, members of the advisory board may authorize personnel from their respective staffs to consult with and provide other support to the advisory board at no cost to the borough. (Ord. 04-04 § 1, 2004; Ord. 04-01 § 2, 2004; Ord. 87-09 § 1, 1987; Code 1986 § 6.25.010(4))

6.08.045 External public financing of economic development.

A. Unless inconsistent with law, no Alaska Industrial Development and Export Authority ("AIDEA") or other external, public financing of roads, ports, other facilities, infrastructure or public or private projects within the borough may be undertaken without the approval of a resolution approved by at least two-thirds of the voting members of the Northwest Arctic borough assembly.

B. In approving external, public financing for such projects, the assembly shall consider the following factors:

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1. Whether the borough could finance the project on terms satisfactory to both the project developer and the borough;

2. Whether external, public financing of the project would adversely affect the ability of the borough to market other bonds or to finance other projects or components of projects;

3. Whether the terms of the external, public financing have the potential of depriving the borough of tax or other revenue beyond that which is necessary to meet the reasonable debt service of the proposed external public financing;

4. Whether the project will have adverse economic, social, environmental or other foreseeable negative effects on the borough or its citizens;

5. Whether the borough can participate in the external public financing with AIDEA or any other external, public financing agency;

6. Whether AIDEA or any other external, public financing agency has complied with the statutory and regulatory requirements for such financing;

7. Whether external, public financing of the project is otherwise in the borough's best interest.

C. In considering the foregoing factors the assembly shall:

1. Engage the services of an independent financial analyst and any other qualified professionals necessary to examine the terms of the proposed, external, public financing and reasonable alternatives for borough financing of the project;

2. Obtain all documents and disclosures relative to the proposed, external public financing;

3. If necessary and as permitted by law, agree to protect any confidential information relative to the proposed, external public financing;

4. Publish notice of the proposed resolution at least 10 days in advance of the public hearing on the resolution.

D. Nothing in this section shall require borough assembly review and approval of private financing of projects.

E. For purposes of this section, "external public financing" means financing by the state of Alaska or the United States of America or any of their agencies or any similar public entity other than the Northwest Arctic Borough. (Ord. 03-09 § 1, 2003)

6.08.050 Northwest Inupiat Housing Authority exemption.

In the event that the citizens of the borough approve the levy of a sales tax, such tax shall exempt the payment of rent by the tenants of the Department of Housing and Urban Development project and the Northwest Inupiat Housing Authority. (Ord. 88-06 § 2, 1988; Code 1986 § 6.34.010)